

Agricultural Marketing Service, USDA

§ 57.1

IDENTIFICATION OF RESTRICTED EGGS OR EGG PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION

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Subpart B—Rules of Practice Governing Proceedings Under the Egg Products Inspection Act

SCOPE AND APPLICABILITY OF RULES OF PRACTICE

- 57.1000 Administrative proceedings.

AUTHORITY: 21 U.S.C. 1031–1056.

SOURCE: 63 FR 69968, Dec. 17, 1998, unless otherwise noted.

EDITORIAL NOTE: 1. At 63 FR 69969, Dec. 17, 1998, part 57 was added by duplicating portions of part 59. At 63 FR 72353, Dec. 31, 1998, part 59 was redesignated as part 590 of 9 CFR.

2. Nomenclature changes to part 57 appear at 63 FR 69971, Dec. 17, 1998.

Subpart A—Regulations Governing the Inspection of Eggs

GENERAL

§ 57.1 Definitions.

For the purpose of the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

Acceptable means suitable for the purpose intended by the Agricultural Marketing Service.

Act means the applicable provisions of the Egg Products Inspection Act, as amended, (Pub. L. 91–597, 84 Stat. 1620 *et seq.*).

Administrator means the Administrator of AMS of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in the Administrator's stead.

Adulterated means any egg under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b)(1) If it bears or contains any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may in the judgment of the Secretary, make such article unfit for human food;

(2) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(3) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not otherwise deemed adulterated under paragraph (b)(2), (3), or (4) of this definition shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(c) If it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(d) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(f) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(g) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(h) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

Agricultural Marketing Service or *AMS* mean the Agricultural Marketing Service of the Department.

Applicant means any interested party who requests any inspection service.

Capable of use as human food means any egg, unless it is denatured, or otherwise identified, as required by these regulations to deter its use as human food.

Chief of the Grading Branch means Chief of the Grading Branch, Poultry Programs, AMS.

Class means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

Commerce means interstate, foreign, or intrastate commerce.

Condition means any characteristic affecting a products merchantability including, but not being limited to, the following: The state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food of any product; or the processing, handling, or packaging which affects such product.

Container or *Package* mean for shell eggs, any carton, basket, case, cart, pallet, or other receptacle.

(a) *Immediate container* means any package or other container in which shell eggs are packed for household or other ultimate consumers.

(b) *Shipping container* means any container used in packing an immediate container.

Department means the United States Department of Agriculture.

Egg means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are as follows:

(a) *Check* means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(b) *Clean and sound shell egg* means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(c) *Dirty egg* or *Dirties* means an egg(s) that has an unbroken shell with adhering dirt, or foreign material.

(d) *Incubator reject* means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(e) *Inedible* means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(f) *Leaker* means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(g) *Loss* means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat or blood spot, a large quantity of blood, or other foreign material.

(h) *Restricted egg* means any check, dirty egg, incubator reject, inedible, leaker, or loss.

Egg handler means any person, excluding the household consumer, who engages in any business in commerce that involves buying or selling any eggs or processing any egg products, or otherwise using any eggs in the preparation of human food.

Federal Food, Drug, and Cosmetic Act means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

Inedible egg products means dried, frozen, or liquid inedible egg products that are unfit for human consumption.

Inspection means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of the Egg Products Inspection Act and the regulations under this part.

Interested party means any person financially interested in a transaction involving any surveillance inspection service.

Label means a display of any printed, graphic, or other method of identification upon the shipping container, if any, or upon the immediate container, including but not limited to, an individual consumer package of eggs, or accompanying such product.

National supervisor means:

(a) The officer-in-charge of the surveillance inspection service; and

(b) Other employee of the Department designated by the national supervisor.

Nest-run eggs means eggs that have been packed as they come from the production facilities without having been washed, sized and/or candled for

quality, with the exception that some checks, dirties, or other obvious undergrades may have been removed.

Office of inspection means the office of any inspector.

Official certificate means any certificate prescribed by regulations of the Administrator for issuance by an inspector or other person performing official functions under this part.

Official device means any device prescribed or authorized by the Secretary for use in applying any official mark.

Official egg products processing plant means one or more buildings or parts thereof comprising a single plant in which the plant facilities and methods of operation therein have been approved by the Administrator of the Food Safety Inspection Service as suitable and adequate for the continuous inspection of egg products and in which inspection service is carried on.

Official standards means the official U.S. standards of quality, grades, and weight classes for shell eggs maintained by and available from Poultry Programs, AMS.

Person means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

Pesticide chemical, Food additive, Color additive, and Raw agricultural commodity mean the same for purposes of this part as under the Federal Food, Drug, and Cosmetic Act.

Plant means any place of business where eggs are processed.

Quality means the inherent properties of any product which determine its relative degree of excellence.

Regional director means any employee of the Department in charge of the surveillance inspection service in a designated geographical area.

Regulations means the provisions in this entire part and such U.S. Standards, Grades, and Weight Classes for Shell Eggs as may be in effect at the time grading is performed.

Regulatory inspector or Inspector means any Federal employee or the employee of a cooperating agency to whom a license has been issued by the Secretary to make such inspections as required in § 57.28 of these regulations.

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Regulatory officer or staff officer means staff assistants to regional directors who assist the regional director in administering the surveillance inspection service.

Sampling means the act of taking samples of any product for inspection.

Secretary means the Secretary of Agriculture or any other officer or employee of the Department to whom the authority to act in the Secretary's stead has been delegated.

Service means the personnel who are actively engaged in the administration, application, and direction of the surveillance inspection service pursuant to the regulations in this part.

Shell egg packer means any person engaged in the sorting of eggs into their various qualities.

(a) *Producer-packer* means any person engaged in the sorting of eggs from their own production into their various qualities, either mechanically or by other means.

(b) *Grading station* means any person engaged in the sorting of eggs from their own production and sources other than their own production into their various qualities, either mechanically or by other means.

State means any State of the United States of America, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

State supervisor or Federal-State supervisor means any authorized and delegated individual who is in charge of the surveillance inspection program in a state.

Surveillance inspection service means the official service within the Department having the responsibility for carrying out the provisions of the Egg Products Inspection Act under this part.

Ultimate consumer means any household consumer, restaurant, institution, or any other party who has purchased or received shell eggs for consumption.

Unclassified eggs means eggs that have been washed or are unwashed and show evidence of segregating or sizing.

United States Standards, Grades, and Weight Classes for Shell Eggs (AMS 56) means the official U.S. standards, grades, and weight classes for shell

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eggs that are maintained by and available from Poultry Programs, AMS.

Washed ungraded eggs means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

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§ 57.10 Administration.

The Administrator shall perform, for and under the supervision of the Secretary such duties as the Secretary may require in the enforcement or administration of the provisions of the act and the regulations in this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, grading, inspection, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The AMS and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

[69 FR 57166, Sept. 24, 2004]

§ 57.13 Federal and State cooperation.

The Secretary shall, whenever determined necessary to effectuate the purposes of the Act, authorize the Administrator to cooperate with appropriate State and other governmental agencies in carrying out any provisions of the Egg Products Inspection Act and this part. In carrying out the provisions of the Act and the regulations in this part, the Secretary may conduct such examinations, investigations, and inspections as the Secretary determines practicable through any officer or employee of any such agency commissioned by the Secretary for such purpose. The Secretary shall reimburse the States and other agencies for the services rendered by them stated in the cooperative agreements signed by the Administrator and the duly authorized agent of the State or other agency.

[69 FR 57166, Sept. 24, 2004]